The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte IHOR WACYK

Appeal No. 2006-1156
Application No. 09/903,882

ON BRIEF

Before HAIRSTON, KRASS, and SAADAT, Administrative Patent Judges.

KRASS, Administrative Patent Judge.

DECISION ON APPEAL

This is a decision on appeal from the final rejection of claims 1-4 and 9-17. Claims 5-8 have been indicated by the examiner as being directed to allowable subject matter and are not before us on appeal.

The invention pertains to wireless control of one or more nearby devices, best illustrated by reference to representative independent claim 1, reproduced as follows:

1. A system comprising a wireless controller that binds one or more devices from a neighborhood group of devices to the controller, the controller having a processor that processes data and formats signals and a transceiver that transmits and receives signals, the controller in a binding procedure transmitting an address inquiry signal to an address (ADDR1) of a first device in the neighborhood, receiving back a response to the address inquiry signal from the first device, determining whether one or more additional responses to the address inquiry signal are received from one or more of the other devices in the neighborhood group, and sending a randomize address signal addressed to ADDR1 if one or more additional responses to the address inquiry signal is received.

The examiner relies on the following references:

Houggy et al. (Houggy)	5,838,226	Nov. 17, 1998
Winder et al. (Winder)	6,133,832	Oct. 17, 2000
Kowalski et al. (Kowalski)	6,337,619	Jan. 08, 2002 (filed Nov. 06, 1998)
Guerrieri et al. (Guerrieri)	2002/0084890	Jul. 04, 2002 (filed Dec. 28, 2000)
Armstrong et al. (Armstrong)	2002/0175805	Nov. 28, 2002 (filed Nov. 29, 2000)

Claims 1-4 and 9-17 stand rejected under 35 U.S.C. § 103. As evidence of obviousness, the examiner offers Kowalski and Armstrong with regard to claims 1-3, 12, and 13, adding Winder with regard to claims 4 and 14-16. With regard to claims 9 and 10, the examiner offers Armstrong and Houggy, adding Guerrieri with regard to claim 11. The examiner offers Kowalski, Armstrong, and Guerrieri with regard to claim 17.

Reference is made to the briefs and answer for the respective positions of appellant and the examiner.

OPINION

While the examiner recognizes that Kowalski does not describe a step of sending an interrogation signal or address inquiry signal to determine the presence of modules having a specific address, "the common knowledge of controllers transmitting interrogation signals

addressed to specific transponders is taken to be admitted prior art since the applicant failed to traverse the examiner's assertion of official notice..." (answer-page 5). Thus, the examiner concluded that it would have been obvious to modify Kowalski such that terminal T or a controller transmits an address inquiry signal addressed to a specific transponder 150 in order to determine the presence of modules having a specific address and to identify duplicate addresses prior to transmitting commands, thereby preventing the reception of a command by a plurality of modules having the same addresses.

The examiner also recognized that Kowalski does not describe the claimed steps of determining whether one or more additional responses to the address inquiry are received from one or more modules in the group, instructing all devices having the same address to generate a random address, and repeating the entire process if one or more additional responses are received.

The examiner turned to Armstrong for its teaching at paragraph [0062] of transmitting a command to transponders 150 and determining from the received signals if there is a transponder 150 that has the same Tag ID or address as another transponder 150, as well as the host computer 100 transmitting a Re-select ID command or "Randomize Address" signal to a group of transponders 150 having the same Tag ID, and instructing transponders 150 to generate a random Tag ID.

The examiner concluded that it would have been obvious to modify Kowalski with Armstrong "because causing modules/device to generate random addresses upon detection of

duplicate addresses greatly reduces interference and enables terminal T/controller to control and/or communicate with a particular module" (answer-page 6).

For his part, appellant asserts that the examiner has failed to present a prima facie case of obviousness with regard to claim 1 because the examiner has relied on Official Notice for transmitting an address inquiry signal to an address despite appellant's traversal of that Notice; the examiner has failed to cite a reference that describes determining whether more than one response is received to an address inquiry signal; and the examiner has failed to cite a reference that teaches sending a randomize address signal addressed to a specific address (principal brief-page 15).

We have considered the evidence before us, including, inter alia, the disclosures of the applied references and the arguments of appellant and the examiner, and we conclude therefrom that the examiner has established a prima facie case of obviousness with regard to independent claim 1 that has not been successfully rebutted by appellant.

We adopt the examiner's reasoning as our own and respond to appellant's arguments.

Appellant first argues that appellant did traverse the examiner's taking of Official Notice that was well known to transmit an address inquiry signal to an address. However, appellant merely points to a statement by appellant in an earlier paper ("Appellant's Response to Office Action mailed December 10, 2003, page 20, last two lines" – see page 12 of the principal brief), viz., "'The Applicant denies any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response.'" We agree with the examiner

that this is not a proper traversal of the examiner's taking of Official Notice as it does not directly respond to that of which the examiner takes Official Notice. The statement does not indicate with what, exactly, appellant disagrees.

Moreover, at page 11 of the answer, the examiner proffers evidence in the form of two U.S. Patents (5,798,693 and 5,952,922) alleged to show that "transmitting an address inquiry signal to an address" was well known in the art, and appellant never addresses this showing by the examiner even though appellant did file a reply brief.

Accordingly, we accept as true the examiner's allegation that "transmitting an address inquiry signal to an address" was well known in the art.

Appellant also argued that the examiner failed to cite a reference that describes determining whether more than one response is received to an address inquiry signal. Again, we disagree. At the bottom of page 9 (Paragraph [0063]) of Armstrong, it is indicated that if it is found that the Tag ID of a particular transponder is identical to an existing Tag ID, then a Replace Tag ID command is given. Now, while Armstrong is not specific on exactly how it is determined that two Tag IDs are identical, other than that a Tag ID is identical to an existing Tag ID stored in memory in host computer 100, it would appear reasonable, and obvious, that a device was addressed and responsive to that addressing, the device responded, with that device having the same address, or Tag ID, as another responding device. In any event, Armstrong is clearly suggesting that there is more than one response to some type of address inquiry signal, and it is determined that the Tag IDs of these responding units are identical, at which point a

command is given for one of the duplicate Tag IDs to be replaced. Thus, there is some determination in Armstrong of whether there is more than one response to an address inquiry signal.

Appellant also asserts that the examiner has failed to cite a reference that teaches sending a randomize address signal addressed to a specific address. We disagree. In Armstrong, in Paragraph [0062], in the Reselect Tag ID mode, a command is issued to select a new Tag ID when it is found that there are duplicate Tag IDs. This is a randomization step since each transponder randomly selects a new Tag ID in response to that command.

Having considered each of appellant's arguments regarding the rejection of independent claim 1, and having found the arguments unpersuasive of nonobviousness, we will sustain the rejection of claim 1 under 35 U.S.C. § 103.

With regard to claim 2, appellant argues that although Kowalski may teach a controller sending a transmit address request signal to the devices in a neighborhood group, any established communication will be with the addressed module because the reference assumes a system containing uniquely addressed modules. Moreover, argues appellant, if Kowalski is combined with Armstrong, a person would establish a separate interrogation zone in which to detect the duplicate data of more than one module having the same identification data. Appellant notes that this would not result in using a first address received from neighborhood devices in response to an address request signal as address ADDR1 of a first device in the neighborhood, transmitting

an address inquiry signal to address ADDR1, and determining whether more than one response is received to the address inquiry signal, as required by claim 2.

We will sustain the rejection of claim 2 under 35 U.S.C. § 103.

Kowalski clearly teaches (see the abstract, for example) the concept of selecting a module that responds first to a signal sent by a controller. Thus, Kowalski taught a controller that sends a transmit address request signal to neighborhood devices and uses a first address received from the devices in response to the address request signal. That address may be labeled ADDR1. This step is performed prior to any later transmission of an address inquiry signal to address ADDR1 of the first device because the controller did not yet have the address ADDR1 of the first device until after the response to the address request signal. At this point, the combination of Kowalski/Armstrong suggested the transmission of an address inquiry signal to the address of the first device, as well as the remaining elements of the system of claims 1 and 2 for the reasons set forth supra with regard to claim 1.

With regard to claim 3, appellant argues that while the examiner asserts that actions (a)–(d) are suggested by Kowalski in order for terminal T to select other modules that have yet to communicate with terminal T, and that action (f) is suggested by Armstrong's transmitting a Reselect Tag ID command, the examiner does not assert that Armstrong teaches repeating action (e), determining whether more than one device responds to an address inquiry signal sent to a specified address.

We agree with the examiner (answer-page 15) that because Armstrong teaches that the process of transmitting a Reselect Tag ID command continues until each transponder has a unique Tag ID, a step (e), as recited in claim 3, i.e., determining whether one or more additional responses to the address inquiry signal are received from one or more of the other devices, must also be repeated in Armstrong.

Accordingly, we will sustain the rejection of claim 3 under 35 U.S.C. § 103.

Turning to independent claim 12, we will also sustain the rejection of this claim under 35 U.S.C. § 103 as the arguments are similar to those addressed supra with regard to claims 1-3. In addition, appellant again argues that Armstrong teaches that duplicate addresses are detected by comparison to existing addresses stored in the memory of a host computer rather than determining whether more than one response is received to query as to whether devices have a specified address, as recited in claim 12. We do not find a comparison technique and a determination of whether one or more responses is received to query as to whether devices have a specified address to be mutually exclusive.

For the reasons set forth by the examiner, regarding claims 1-3, we will also sustain the rejection of claim 12 under 35 U.S.C. § 103.

Since appellant's arguments regarding claim 13 appear to be identical to previous arguments, for the reasons supra, we will also sustain the rejection of claim 13 under 35 U.S.C. § 103.

The rejection of claims 4 and 14-16 depends on the Winder reference in addition to the Kowalski and Armstrong references.

With regard to claims 4 and 14 the examiner relied on Winder's teaching of an audible or visual output from a receiver tag when activated for the claimed sensory output of a device that identifies itself to an operator. Appellant merely incorporates the same arguments as before in the argument regarding these claims (see page 31 of the principal brief). Accordingly, we will sustain the rejection of claims 4 and 14 under 35 U.S.C. § 103.

With regard to claim 15, in addition to similar arguments made before, appellant indicates that the limitation of "binding the first device as part of the control group" is not taught by Kowalski's module in an EXEC state, as asserted by the examiner, because the object of Kowalski is to select a single module from a plurality of modules in order to establish communication between a terminal and the selected module. Thus, appellant concludes, Kowalski cannot suggest binding a module to a group, as recited in claim 15.

We agree with the examiner, at page 18 of the answer, that a control group can have a single device, as suggested by even appellant's disclosure of binding "one or more" lamps. Moreover, as pointed out by the examiner, at page 18 of the answer, the modules with which T establishes communication in Kowalski and are commanded to perform operations are understood to be part of a control group.

Accordingly, we will sustain the rejection of claim 15 under 35 U.S.C. § 103.

We will also sustain the rejection of claim 16 under 35 U.S.C. § 103 for the reasons given by the examiner at page 19 of the answer in response to appellant's argument at pages 34-35 of the principal brief.

The rejection of claims 9 and 10 depends on a combination of Armstrong and Houggy. The examiner pointed to the description of Armstrong's transponder 150 shown in Figure 11 and noted that Armstrong disclosed the claimed subject matter but for the processor of the transponder transmitting a response to the host computer 100 after a predetermined time period upon receiving a Read Tag ID command or address request signal. The examiner turned to Houggy to show a processor programmed to transmit status information in an assigned time slot and found that it would have been obvious to modify Armstrong's transponder 150 with the teachings of Houggy such that Armstrong's transponder transmits the address in an assigned time slot upon receiving a Read Tag ID command in order to avoid interference, noting such an advantage taught by Houggy at column 3, lines 2-4.

Appellant argues that the time slots of Houggy are synchronized to the zero crossings of the AC power supplied to the master station and that the point in time at which a dimmer in Houggy transmits its status is determined by the timing of a subsequent zero crossing of the AC power line, rather than by the passing of a pre-determined period of time after the receipt of a command, as in claim 9.

For the reasons set forth by the examiner, at pages 19-20 of the answer, reasons which we adopt as our own, we will sustain the rejection of claim 9 under 35 U.S.C. § 103. Quite clearly, a

"'pre-determined period of time after receipt of an address request signal'" can be interpreted as set forth by the examiner at pages 19-20 of the answer.

Similarly, we will also sustain the rejection of claim 10 under 35 U.S.C. § 103 for the reasons given by the examiner at page 20 of the answer, wherein the examiner has shown that the Replace Tag ID of Armstrong may be considered the claimed "'signal addressed to the address and comprising a new address.'" Appellant's argument that Armstrong uses two signals to reprogram a transponder Tag ID is not persuasive.

The rejection of claim 11 is based on the combination of Armstrong and Houggy with the addition of Guerrieri. The examiner employs Guerrieri for the teaching of a lamp comprising a transponder. Appellant does not argue this combination except to rely on previous arguments made with regard to claims 9 and 10. Accordingly, we will sustain the rejection of claim 11 under 35 U.S.C. § 103.

Finally, with regard to claim 17, this rejection is based on a combination of Kowalski, Armstrong and Guerrieri. Appellant merely relies on the arguments made previously anent claim 12. Accordingly, we will sustain the rejection of claim 17 under 35 U.S.C. § 103.

The examiner's decision rejecting claims 1-4 and 9-17 under 35 U.S.C. § 103 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a)(1)(iv).

AFFIRMED

KENNETH W. HAIRSTON)
Administrative Patent Judge)
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ERROL A. KRASS) BOARD OF PATENT
Administrative Patent Judge) APPEALS
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